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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/966,303	09/28/2001	Matthew Whitehead	BA1525-520/01786	5038
24118 7590 11/16/2007 HEAD, JOHNSON & KACHIGIAN 228 W 17TH PLACE TULSA, OK 74119			EXAMINER SHEPARD, JUSTIN E	
			ART UNIT 2623	PAPER NUMBER
			MAIL DATE 11/16/2007	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

Application No.

09/966,303

Applicant(s)

WHITEHEAD, MATTHEW

Examiner

Justin E. Shepard

Art Unit

2623

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 22 August 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-4 and 9-12 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-4 and 9-12 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Response to Arguments***

Applicant's arguments with respect to the claims have been considered but are moot in view of the new ground(s) of rejection.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-4, 10, and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lawler (US Patent 6,868,551) in view of Barrett.

Referring to claim 1, Lawler discloses a television system, said system comprising:

a broadcast data receiver (figure 1, part 20) for receiving data which is broadcast from a remote location (figure 1) and which includes video, audio and auxiliary data (column 3, lines 62-65; column 5, lines 61-67), processing said data to generate video, audio (column 4, lines 12-17) and auxiliary services via an on-screen display (figure 3B) and speakers connected with the broadcast data receiver (column 7, lines 30-32);

an electronic program guide which is generated from said auxiliary data on screen to provide information and facilitate user selection of programs for viewing at that instant or in the future (column 5, lines 61-67, 15-19, and 39-40); and

a storage means provided as a part of the broadcast data receiver (figure 2, part 68) in which data is downloaded and held in storage for subsequent retrieval and display upon the selection of a program from the electronic program guide (column 5, lines 42-50; column 6, lines 54-61) and to which a portion of the video and/or audio data relates (column 6, lines 62-64), the stored portions of data having identification data such that upon user selection to receive information on a program using the electronic program guide the broadcast data receiver identifies the identification data for the selected program (column 5, lines 42-50) and searches the for stored video and/or audio data with matching identification data (column 6, lines 62-64), and if found, processes the same to generate video and/or audio therefrom for said display (figure 5, box 130).

Lawler does not disclose a system wherein the storage means in the form of a hard disc memory; and wherein a plurality of portions of video and/or audio data are stored on the memory; said video and/or audio data to be stored is downloaded separately from said auxiliary\_ data at designated times according to when the broadcast data receiver is not in use by a user.

In an analogous art, Barrett teaches a system wherein the storage means in the form of a hard disc memory (column 4, lines 15-17); and wherein a plurality of portions of video and/or audio data are stored on the memory; said video and/or audio data to be stored is downloaded separately from said auxiliary data at designated times according to when the broadcast data receiver is not in use by a user (column 9, lines 41-51).

At the time of the invention it would have been obvious for one of ordinary skill in the art to use the hard drive and video downloading during off peak times taught by Barrett in the system disclosed by Lawler. The motivation would have been that hard disk storage devices offer large amounts of storage at a cheaper price than solid-state storage devices; and that downloading during off peak times saves on bandwidth consumption (column 9, lines 41-51).

Referring to claim 2, Lawler discloses a television system according to claim 1 wherein said retrieval and display of said video and/or audio data from the storage means is in response to a user request for further information with respect to a particular program displayed on said electronic program guide (column 5, lines 42-50).

Referring to claim 3, Lawler discloses a television system according to claim 1 wherein a video and/or audio clip or trailer for a particular program is generated from said data retrieved from storage and shown to the user (column 6, lines 54-61).

Referring to claim 4, Lawler discloses a television system according to claim 3 wherein the user has the option, after or during viewing the clip or trailer, to select the program at that instant (column 5, lines 39-40) or in the future via said electronic program guide.

Referring to claim 10, Lawler discloses a television system according to claim 1 wherein said data video data being transmitted for the generation of the clips and trailers are shown in a portion of said display screen (figure 3B, box 94; column 5, lines 42-50).

Referring to claim 11, Lawler discloses a television system according to claim 1 wherein further auxiliary information is generated via said data stored in the storage means for retrieval upon the selection of a related program via said electronic program guide (column 5, lines 42-57).

Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over Lawler in view of Barrett as applied to claim 1 above, and further in view of Ludwig.

Referring to claim 9, Lawler and Barrett do not disclose a television system according to claim 1, wherein said video data being transmitted for the generation of clips and trailers is a low resolution.

In an analogous art, Ludwig teaches a television system according to claim 1, wherein said video data being transmitted for the generation of clips and trailers is a low resolution (column 78, lines 49-55).

At the time of the invention it would have been obvious for one of ordinary skill in the art to download the clips at lower resolutions, as taught by Ludwig, in the system disclosed by Lawler and Barrett. The motivation would have been to conserve bandwidth needed to transfer video files (Ludwig: column 58, lines 20-21).

Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over Lawler in view of Sciammarella in view of Barrett.

Referring to claim 12, Lawler discloses a television system, said system comprising:

a broadcast data receiver (figure 1, part 20) for receiving data broadcast from a remote location (figure 1) including video, audio and auxiliary data (column 3, lines 62-65; column 5, lines 61-67) for processing the data to generate video, audio (column 4, lines 12-17) and auxiliary services via an on-screen display (figure 3B) and speakers connected with the broadcast data receiver (column 7, lines 30-32);

an electronic program guide generated from said auxiliary data to provide information and facilitate user selection of programs for viewing at that instant or in the future (column 5, lines 61-67, 15-19, and 39-40); and

a storage means provided as a part of the broadcast data receiver (figure 2, part 68) in which a sufficient portion of the video and/or audio data for a particular clip or trailer is downloaded separately from said auxiliary data (column 5, lines 61-67; column 6, lines 1-4; column 6, lines 54-61) at a designated time and is held in the storage means stored for subsequent retrieval and display (column 6, lines 54-61), upon user selection of a program from the electronic program guide to which a portion of the stored video and/or audio data relates, the broadcast data receiver refers to portions of the downloaded video and/or audio data stored in the storage means to identify identification means for the selected program (column 5, lines 42-50) and then searches

for the appropriate identification means for a portion of data in the storage means which matches the selected program and when found, a portion of the data is processed to cause the clip or trailer for that particular program to be generated on the display screen for viewing by a user (column 6, lines 62-64).

Lawler does not disclose a system wherein the storage means in the form of a hard disc memory and wherein a preview from each program in the following time period in the electronic program guide is downloaded at a designated time when the broadcast data receiver is not in use by a user.

In an analogous art, Sciammarella teaches a system wherein the storage means in the form of a hard disc memory (column 4, lines 41-42) and wherein a preview from each program in the following time period in the electronic program guide is downloaded (column 4, lines 3-8; figure 8A; Note: the time period is being interpreted as the current programs being broadcast).

At the time of the invention it would have been obvious for one of ordinary skill in the art to add the hard disk and time period taught by Sciammarella to the system disclosed by Lawler. The motivation to use the hard drives would have been that hard disk storage devices offer large amounts of storage at a cheaper price than solid-state storage devices. The motivation to use the period would have been that only downloading a finite number of previews for programs would keep down the storage costs.



Lawler and Sciammarella do not disclose a system wherein the previews are downloaded at a designated time when the broadcast data receiver is not in use by a user.

In an analogous art, Barrett teaches a system wherein the previews are downloaded at a designated time when the broadcast data receiver is not in use by a user (column 9, lines 41-51).

At the time of the invention it would have been obvious for one of ordinary skill in the art to download the clips at designated time intervals, as taught by Barrett, in the system disclosed by Lawler and Sciammarella. The motivation would have been to conserve bandwidth needed to transfer video files (Barrett: column 4, lines 15-17), as while the system would be in use the system would be downloading normal broadcast television.

### ***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

Art Unit: 2623


the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Justin E. Shepard whose telephone number is (571) 272-5967. The examiner can normally be reached on 7:30-5 M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chris Kelley can be reached on (571) 272-7331. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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